

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a Washington
corporation,

Plaintiff,

v.

MOTOROLA, INC., and MOTOROLA
MOBILITY, INC.,

Defendants.

CASE NO. C10-1823-JLR

DECLARATION OF NORMAN H.
BEAMER IN SUPPORT OF
MOTOROLA, INC. AND MOTOROLA
MOBILITY, INC.'S MOTION TO
DISMISS

**NOTED ON MOTION CALENDAR:
Friday, January 7, 2011**

I, NORMAN H. BEAMER, hereby declare as follows:

1. I am one of the attorneys for Motorola, Inc., and Motorola Mobility, Inc.
(collectively "Motorola") in this lawsuit. I am competent to testify, and make this declaration
based on my own personal knowledge.

2. I submit this declaration in support of Motorola, Inc. and Motorola Mobility, Inc.'s
Motion to Dismiss.

3. Attached hereto as Exhibit 1 is a true and correct copy of an October 21, 2010 letter
sent by Kirk W. Dailey, Motorola's Corporate Vice President of Intellectual Property, to Horatio
E. Gutierrez, Microsoft Corporation's ("Microsoft") Corporate Vice President of Intellectual
Property. Attached to the letter is a list of "Motorola Essential Properties, WLAN Annex." I am

DECLARATION OF NORMAN H. BEAMER IN SUPPORT OF
MOTOROLA, INC. AND MOTOROLA MOBILITY, INC.'S
MOTION TO DISMISS - 1
CASE NO. C10-1823-JLR

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1 informed and believe that this Annex lists 52 United States and 205 foreign patents and patent
2 applications.

3 4. Attached hereto as Exhibit 2 is a true and correct copy of an October 29, 2010 letter
4 sent by Kirk W. Dailey, Motorola's Corporate Vice President of Intellectual Property, to Horatio
5 E. Gutierrez, Microsoft's Corporate Vice President and Deputy General Counsel. Attached to the
6 letter is a list of "Motorola Essential Properties, ITU-T-H.264." I am informed and believe that
7 this attachment lists 26 United States and 151 foreign patents and patent applications.

8 5. Attached hereto as Exhibit 3 is a true and correct copy of Treacy and Lawrance,
9 *FRANDly fire: are industry standards doing more harm than good?*, 3 J. Intell. Prop. L. & Prac.
10 22 (2007).


11 6. Attached hereto as Exhibit 4 is a true and correct copy of Alan Devlin, *Standard-*
12 *Setting and the Failure of Price Competition*, 65 N.Y.U. Ann. Surv. Am. L. 217 (2009).

13 7. Attached hereto as Exhibit 5 is a true and correct copy of the IEEE-SA Standards
14 Board Bylaws, approved by the IEEE-SA Board of Governors in December 2009.

15 8. Attached hereto as Exhibit 6 is a true and correct copy of the Guidelines for
16 Implementation of the Common Patent Policy for ITU-T/ITU-R/ISO/IEC, dated March 1, 2007.

17 I declare under penalty of the laws of perjury that, to the best of my knowledge,
18 information and belief, the foregoing is true and correct.

19 DATED this 14th day of December, 2010, at East Palo Alto, California.

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22 Norman H. Beamer
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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 15th day of December, 2010.


Marcia A. Ripley